

REMARKS

Upon entry of this amendment, claims 22-24, 26-28 and 43-54 are all the claims pending in the application. Claims 49-54 are added as new claims. No new matter has been added.

I. Claim Rejection under 35 U.S.C. § 102

The Examiner has rejected claims 22-24, 26-28 and 43-48 under 35 U.S.C. § 102(e) as being anticipated by Imai et al. (U.S. 5,870,467). Applicants respectfully traverse this rejection on the following basis.

A. Claims 22-24 and 26-28

Claim 22 recites the feature of a data format judging section for judging whether or not data received by said data transmission section is of a superdistribution data format. The Examiner asserts that the protected data judgement unit 3 of Imai corresponds to the judging section as claimed. Applicants respectfully disagree and submit that Imai fails to disclose or suggest such a feature.

Imai discloses an input/output management apparatus 10 having an input/output requesting program 11, a data input/output request reception unit 1 for receiving data input/output requests from the program 11, a data input unit 2 for entering data into the program 11 and a protected data judgement unit 3 for judging whether each data input entered into the program 11 is a protected data (see Figs. 1 and 25; and col. 8, lines 18-34).

The protected data judgement unit 3 is able to determine whether a piece of data is protected by examining the header of the data to determine whether the header is of a prescribed

format (see col. 9, lines 13-16). Alternatively, the protected data judgement unit 3 can determine whether data is protected based on the name of the file in which the data is contained, or according to a recorded position in a recording medium (see col. 9, lines 25-28).

Thus, while the protected data judgement unit 3 is able to determine whether data is protected or not, the protected data judgement unit 3 is not able to judge whether or not data is of a superdistribution format, as recited in claim 1.

Applicants note that Imai mentions the superdistribution concept in the Background of the Invention section (see col. 2, lines 54-65), but that this is the only disclosure in Imai relating to superdistribution. Accordingly, as Imai does not disclose that the protected data judgement unit 3 is able to determine whether data is of a superdistribution format, Applicants submit that claim 22 is patentable over Imai, an indication of which is respectfully requested.

In addition, claim 22 recites the feature of an attribute information obtaining section for identifying the audio contents of the data and obtaining attribute information corresponding to the identified audio contents from the external equipment via a data transmission/receiving section. Applicants respectfully submit that Imai fails to disclose or suggest such a feature.

As noted above, Imai discloses an input/output requesting program 11, a data input/output request reception unit 1 for receiving data input/output requests from the program 11, a data input unit 2 for entering data into the program 11 and a data output unit for outputting data from the program 11 (see Figs. 1 and 25; and col. 8, lines 18-34).

When a data input request is received by the input/output request reception unit 1, the data input unit 2 enters the requested data and the protected data judgement unit 3 judges whether the

data entered into the program 11 is considered protected data (see col. 8, line 65 - col. 9, line 9). If the data is determined to be protected by the data judgement unit 3, a record of the input is made in the protected data input recording unit 4 by storing an ID of the requesting program 11 in the protected data input recording unit 4 (see col. 9, lines 42-55). In contrast, if the data is not determined to be protected, then no record is made in the protected data input recording unit 4 (see col. 9, lines 45-48).

When a data output request is received at the input/output request reception unit 1, an output permission judgment unit 5 checks whether the ID of the requesting program 11 is stored in the protected data input recording unit 4 (see col. 10, lines 10-16). If the ID is not stored in the protected data input recording unit 4, then the data is output (see col. 10, lines 16-20). However, if the ID is stored in the protected data input recording unit 4, this implies that the requesting program 11 has previously read protected data, and therefore, further steps are taken to determine whether the data can be output (see col. 10, lines 22-32).

The Examiner alleges that the protected data input unit 4 of Imai corresponds to the attribute information obtaining section as claimed. Applicants respectfully disagree. In particular, Applicants submit that the protected data input unit 4 of Imai fails to identify audio contents of the data and obtain attribute information corresponding to the identified audio contents from external equipment via a data transmission/receiving section, as recited in claim 22.

Applicants note that the Examiner has not specifically addressed this functional language, but instead, appears to take the position that such functional language is mere intended usage of the

invention, and therefore, has not afforded this language patentable weight (see Office Action at pages 3-4).

Contrary to the assertion of the Examiner, however, the functional language recited in claim 22 describing particular capabilities of the apparatus is not an “intended use” that can simply be ignored. The MPEP, for example, specifically points out that there is nothing intrinsically wrong in defining something by what it does rather than by what it is. See MPEP §2173.05(g). A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used.” See MPEP §2173.05(g) (emphasis added).

Further, in the Response to Arguments section at page 5 of the Office Action, the Examiner asserts that the functional language recited in the claims must result in a structural difference in order to patentably distinguish the claimed invention from the prior art. In response, Applicants submit that the functional limitations recited in claim 22 do add structural limitations to the claim because the functional limitations recited therein necessitate structure capable of performing the claimed functions.

In other words, the functional recitations in claim 22 require that the claimed data conversion apparatus include structure enabling it to perform the functional limitations. Thus, in order for a prior art reference to meet a functional limitation in an apparatus claim, the prior art structure must inherently be capable of performing the claimed function.

MPEP §2114, which was cited by the Examiner in the Office Action, provides additional evidence that a prior art structure must inherently be capable of performing the claimed function in

order for the prior art structure to meet the claim limitation. As specifically discussed in MPEP §2114, the Federal Circuit held in *In re Schreiber* that the absence of disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of a claimed apparatus because the limitations at issue were found to be inherent in the prior art reference. In other words, because the prior art structure in *Schreiber* was inherently capable of performing the claimed functional limitations, the Federal Circuit found that the prior art structure anticipated the claim in question.

The Examiner appears to recognize this point by stating in the Response to Arguments section at page 5 of the Office Action that "if the prior art structure is capable of performing the intended use, then it meets the claim." Applicants point out, however, that the Examiner has not followed this required course of analysis when formulating the rejection. That is, the Examiner has not demonstrated that the structure in Imai is capable of performing the functional limitations recited in claim 22. Instead, the Examiner has simply ignored the functional language in explicit contradiction to the guidelines set forth in the MPEP.

As argued in the amendment filed on April 22, 2004, Applicants respectfully submit that the structure in Imai is not inherently capable of performing the functions recited in claim 22, and therefore, submit that Imai does not anticipate the claim. Applicants note, however, that Examiner did not respond to Applicants arguments that the structure of Imai is not inherently capable of performing the claimed functions.

In accordance with MPEP 707.07(f), "where applicant traverses any rejection, the examiner, should, if he or she repeats the rejection, take note of the applicant's argument and

answer the substance of it" (emphasis added). Thus, as the Examiner did not answer Applicants' argument in the present Office Action, if the Examiner maintains the rejection of claim 22, Applicants respectfully request that the Examiner answer the substance of Applicants' argument in the next Office paper.

Regarding the alleged inherency of Imai with respect to the functions recited in claim 22, Applicants note that the "fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." See MPEP §2112 (IV)(emphasis in original). When "relying on a theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." See MPEP §2112 (IV)(emphasis in original). Further, Applicants note that inherency "may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." MPEP §2112 (IV) (emphasis added).

Applicants submit that the Examiner has not come forward with any factual basis as to why the functional features recited in claim 22 must necessarily be present in Imai. Accordingly, Applicants submit that claim 22 is patentable over Imai and respectfully request that the rejection be reconsidered and withdrawn.

For example, as discussed above, claim 22 recites the feature of an attribute information obtaining section for identifying the audio contents of the data and obtaining attribute information corresponding to the identified audio contents from the external equipment via a data transmission/receiving section. As the Examiner alleges that the protected data input recording

unit 4 of Imai corresponds to the attribute information obtaining section, for the Examiner's position to be correct, the protected data input recording unit 4 must be capable of performing the functional limitation underlined above.

Applicants respectfully submit that the protected data input recording unit 4 of Imai is not even remotely capable of performing such a function. Rather, as discussed above, the data input recording unit 4 is merely capable of storing an ID of a program that requests data which was determined to be protected by the judgement unit 3 (see col. 8, lines 25-28 and col. 9, lines 10-21 and 43-46).

If the Examiner disagrees and believes that the protected data input recording unit 4 is inherently capable of identifying audio contents of the data and obtaining attribute information corresponding to the identified audio contents from external equipment via a data transmission/receiving section, Applicants respectfully request an explanation from the Examiner as to how the data input recording unit 4 inherently performs this function.

Applicants note that the Examiner has not presented any factual basis as to why the ability to identify audio contents of the data and obtain attribute information corresponding to the identified audio contents from external equipment via a data transmission/receiving section must necessarily be present in the protected data input recording unit 4 of Imai. Accordingly, Applicants submit that claim 22 is patentable over Imai and respectfully requests that the rejection be reconsidered and withdrawn.

Furthermore, Applicants note that claim 22 sets forth the feature of a user ID storage section storing identification information identifying the user of the data conversion apparatus.

The Examiner recognizes that Imai does not explicitly disclose such a feature. Nonetheless, the Examiner alleges that a user ID storage section as claimed is inherently present in Imai in order to perform the disclosed "authentication."

In the amendment filed on April 22, 2004, Applicants argued that Imai does not inherently disclose such a feature. The Examiner, however, has responded at pages 5-6 of the Office Action by stating that "a user ID identifying a user of the data conversion apparatus is necessarily, thus inherently, present in order to perform the disclosed 'authentication' (authentication being the determination/establishment of identify)." Applicants respectfully disagree.

Based on the Examiner's comments, it appears as though the Examiner believes that the "authentication" in Imai is the establishment of a user's identity. As explicitly disclosed in Imai, however, the "authentication" relates to authenticating an application program, not a user of the system (see Abstract lines 11-18; col. 5, lines 5-8; col. 17, lines 55-58; and col. 19, lines 16-28).

Indeed, there is absolutely no suggestion in Imai that a user of the system needs to be authenticated. Therefore, as the authentication process in Imai relates to the authentication of application program 106, Applicants submit that the feature of a user ID storage section storing identification information of the user of the data conversion apparatus is clearly not inherent in Imai.

Moreover, Applicants note that not all devices require a user to identify themselves by a user ID. Thus, Applicants submit that the feature of a user ID storage section is not necessarily present in Imai, and therefore, is not considered to be inherent. Accordingly, Applicants submit

that claim 22 is patentable over Imai and respectfully request that the rejection be reconsidered and withdrawn.

If the Examiner maintains the position that the feature of a user ID storage section storing the identification information identifying the user of the data conversion apparatus is inherent to Imai, Applicants kindly request that the Examiner provide a factual basis as to why such a feature must necessarily be present in Imai in view of the comments above.

Furthermore, claim 22 recites the feature of a ciphering section ciphering the attribute information obtained from the external equipment and the identification information stored in the user ID storage section. The Examiner alleges that sub hardware 132 (see Fig. 20) inherently performs the function of ciphering attribute information (see Office Action at page 4).

Applicants note that in the amendment filed on April 22, 2004, Applicants argued that Imai fails to disclose or suggest such a feature. The Examiner, however, did not respond to this argument. Thus, as noted above, in accordance with MPEP 707.07(f), if the Examiner maintains this rejection, Applicants respectfully request that the Examiner answer the substance of Applicants' argument in the next Office paper.

In particular, in the amendment filed on April 22, 2004, Applicants argued that Imai discloses that writing data on a network can be protected by utilizing means of a cipher communication (see col. 18, lines 46-48), but that the mere disclosure of cipher communication does not render inherent the feature of a ciphering section ciphering attribute information obtained from external equipment and the identification information stored in the user ID storage section, as recited in claim 22.

Accordingly, if the Examiner maintains the position that the sub hardware 132 of Imai inherently performs the feature of ciphering the attribute information obtained from the external equipment and the identification information stored in the user ID storage section, Applicants kindly request that the Examiner provide a factual basis as to how and why the sub hardware 132 of Imai must necessarily perform such a feature.

Further, claim 22 recites the feature of a data format conversion section adding said ciphered attribute information and identification information to the audio contents and thereby converting the audio contents together with the obtained attribute information to the superdistribution format. The Examiner alleges that output permission judgement unit 5 corresponds to the data format conversion unit as claimed.

In the amendment filed on April 22, 2004, Applicants argued that the output permission judgement unit 5 does not correspond to the data format conversion section as claimed. Again, however, Applicants note that the Examiner has not responded to this argument. In accordance with MPEP 707.07(f), "where applicant traverses any rejection, the examiner, should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it" (emphasis added). Thus, as the Examiner did not answer Applicants' argument in the present Office Action, if the Examiner maintains this rejection, Applicants respectfully request that the Examiner answer the substance of Applicants' argument in the next Office paper.

In particular, in the amendment filed on April 22, 2004, Applicants noted that the output permission judgement unit 5 of Imai is responsible for checking whether or not the received data is protected data, and if the data is not protected data, the output permission judgement unit 5 allows

the data to be output (see col. 10, lines 10-20). The output permission judgement unit 5, however, is in no way whatsoever capable of adding ciphered attribute information and identification information to the audio contents and thereby converting the audio contents together with the obtained attribute information to the superdistribution format, as recited in claim 22.

If the Examiner maintains this rejection, Applicants respectfully request that the Examiner explain how the output permission judgement unit 5 of Imai is inherently capable of adding ciphered attribute information and identification information to the audio contents and thereby converting the audio contents together with the obtained attribute information to the superdistribution format, as recited in claim 22.

Moreover, claim 22 recites that "in a case where said data format judging section judges that the received data is not of the superdistribution format, said controller controls said attribute information obtaining section so as to obtain the attribute information corresponding to the audio contents from the external equipment, and wherein said controller controls said data format conversion section so as to convert the audio contents of the received data together with the obtained attribute information into the superdistribution format data, so that the resultant data converted to the superdistribution data format is outputted and supplied to the external recording apparatus."

Applicants note that the Examiner has not addressed this feature of claim 22 in the Office Action despite Applicants specific request for the Examiner to do so (see the amendment filed on April 22, 2004), as well as Applicants previous argument that Imai fails to disclose or suggest such a feature. Again, as noted above, in accordance with MPEP 707.07(f), "where applicant traverses

any rejection, the examiner, should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." Thus, as the Examiner did not answer Applicants' argument in the present Office Action, Applicants respectfully request that the Examiner answer the substance of Applicants' argument in the next Office paper.

In particular, as noted in the amendment filed on April 22, 2004, it appears as though the Examiner may be alleging that this functional language is merely intended usage that can be ignored. As explained above, such a position is incorrect. Again, Applicants note that in order for Imai to meet this feature of the claim, the apparatus of Imai must be inherently capable of performing the recited function. Applicants respectfully submit that the apparatus of Imai is clearly not capable of performing such a function. If the Examiner disagrees, Applicants respectfully request that the Examiner provide Applicants with a factual reasoning explaining how the structure of Imai is inherently capable of performing this function.

Claims 23, 24 and 26-28 depend from claim 22 and are therefore considered patentable at least by virtue of their dependency.

In addition, claim 24 recites the feature of a recording section for recording the superdistribution format data. In the Response to Arguments section of the Office Action, the Examiner asserts that the data conversion apparatus 100 of Imai is capable of recording data having a superdistribution format (see item 14 on page 6 of the Office Action), and in particular, alleges that the authentication result memory unit 105, as shown in Fig. 13 of Imai, corresponds to the recording section as claimed (see Office Action at page 4). Applicants respectfully disagree.

Imai discloses the use of a copyright kernel 104 in an operating system 103 that authenticates an application program 106 by judging whether it is a registered application program or not (see col. 18, lines 18-21). As a result of the authentication by the copyright kernel 104, when it is judged that the application program 106 is a copyright observant application program, this fact is stored in the authentication result memory unit 105 (see col. 18, lines 22-25).

Applicants note that a “copyright observant application program” is an application program which when handling the writing of data, does not delete or alter copyright labels, but instead, attaches the copyright label for a secondary writing data by correctly reflecting the content of the copyright label (see col. 18, lines 2-7).

Accordingly, Applicants submit that while the authentication result memory unit 105 of Imai is capable of storing information indicating whether an application program is a copyright observant application program, the authentication result memory unit 105 is not capable of recording superdistribution format data (see col. 18, lines 22-26), as recited in claim 22.

Accordingly, Applicants submit that claim 24 is patentable over Imai and kindly request the Examiner to withdraw the rejection.

Further, claim 24 recites the feature of a charging section for executing a charging operation based on the charge condition of the attribute information. The Examiner alleges that copyright kernel 104 corresponds to the charging section as claimed. In the amendment filed on April 22, 2004, Applicants argued the copyright kernel 104 was not capable of performing such a feature. The Examiner, however, did not respond to Applicant's argument.

In particular, in the amendment filed on April 22, 2004, Applicants pointed out that the copyright kernel 104 of Imai is responsible for authenticating the application program 106 by determining whether it is a registered application program or not (see col. 18, lines 18-20). As Applicants noted, however, there is absolutely no disclosure whatsoever in Imai regarding the copyright kernel 104 executing a charge operation based on the charge condition of the attribute information, as recited in claim 24.

If the Examiner maintains the position that the copyright kernel 104 of Imai is capable of executing a charge operation based on the charge condition of the attribute information, Applicants respectfully request that the Examiner provide Applicants with a factual reasoning explaining why this functional feature must necessarily be present in Imai.

In view of the foregoing, Applicants submit that claim 24 is patentable over Imai and kindly request the Examiner to withdraw the rejection.

Regarding claims 26-28, Applicants note the Examiner has taken the position that the limitations recited in these claims are mere intended usage, and therefore, has not afforded the limitations patentable weight (see Office Action at page 4). Applicants disagree.

Applicants respectfully submit that the limitations in claims 26-28 are not mere intended usage which can be ignored, but rather, are functional limitations which must be considered by the Examiner. As discussed above, a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." See MPEP §2173.05(g).

If the Examiner maintains the position that Imai discloses the features recited in claims 26-28, Applicants respectfully request that the Examiner particularly explain how the structure in Imai is inherently capable of performing the functions recited in each of these claims so that Applicants may make an informed decision with regard to appeal.

B. Claims 43-48

Regarding claims 43-48, Applicants note that these claims are similar to claims 22-24 and 26-28 but are written in means plus function format. In the Office Action, the Examiner asserts that the functional portion of the means-plus-function limitations in claims 43-48 is mere intended usage, and therefore, has not given the functional language patentable weight. In other words, the Examiner is taking the position that the means-plus-function limitations recited in claim 43 do not actually include a “function”, but instead, merely include an intended usage.

In particular, in item 16 on page 7 of the Office Action, the Examiner alleges that in claim 43, the language after the phrases “means for” is mere intended usage. For example, the Examiner alleges that the limitation in claim 43 which sets forth “a ciphering means for ciphering the attribute information obtained from the external equipment and the identification information stored in said user ID storage means” includes structure (i.e., “a ciphering means”) and intended usage (i.e., “for ciphering the attribute information obtained from the external equipment and the identification information stored in said user ID storage means”). See item 16 on page 7 of the Office Action. Applicants respectfully disagree with the Examiner’s position.

Initially, Applicants note that MPEP § 2114 (see first three lines of MPEP § 2114) indicates that the functional portion of means-plus-function limitations are to be interpreted in accordance

with MPEP § 2181 - § 2186. As explained in MPEP § 2182, “the application of a prior art reference to a means or step plus function limitation requires that the prior art element perform the identical function specified in the claim” (emphasis added).

Further, the Federal Circuit has explained that in identifying the function of a means-plus-function limitation, the function cannot be improperly broadened by ignoring the clear limitations contained in the claim language, but instead, the function of a "means plus function" claim must be construed to include the limitations contained in the claim language.

Lockheed Martin Corporation v. Space Systems/Loral, 324 F.3d 1308, 1319 (Fed. Cir. 2003)(emphasis added).

Based on the foregoing, it is clear that the Examiner’s position regarding the functional portion of the means-plus-function limitations in claim 43 (i.e., that the functional portion is mere intended usage) is incorrect. As is plainly evident based on the discussion above, the “function” must be construed to include the limitations contained in the claim language, and the prior art structure must perform the identical function recited in the claim.

Thus, using the example above regarding the means-plus-function limitation which recites “a ciphering means for ciphering the attribute information obtained from the external equipment and the identification information stored in said user ID storage means”, the function of this means plus function limitation is “for ciphering the attribute information obtained from the external equipment and the identification information stored in said user ID storage means.” Accordingly, in order for Imai to meet this claim limitation, Imai must perform the identical function. For similar reasons as discussed above regarding claim 22, Applicants respectfully submit that Imai fails to disclose or suggest such a function.

Moreover, Applicants note that the Examiner states in the Response to Arguments section that “even if defined in means-plus-function format, apparatus claim limitations are still drawn to structure, and the structure in a reference, to be anticipatory, can either be the same as, or equivalent to, the disclosed structure of the claimed invention.” The Examiner goes on to point to MPEP 2114 which states that “means plus function limitations are met by structures which are equivalent to the corresponding structures recited in the specification.”

Based on the above comments by the Examiner, it appears as though the Examiner may be confusing the “equivalent structure” analysis for means plus function limitations with the “identity of function” requirement for means plus function limitations.

In particular, Applicants point the Examiner’s attention to MPEP 2182 which sets forth the following:

Both before and after *Donaldson*, the application of a prior art reference to a means or step plus function limitation **requires that the prior art element perform the identical function specified in the claim**. However, if a prior art reference teaches identity of function to that specified in a claim, then under *Donaldson* an examiner carries the initial burden of proof for showing that the prior art structure or step is the same as or equivalent to the structure, material, or acts described in the specification which has been identified as corresponding to the claimed means or step plus function. (Emphasis added).

Thus, as is clear from the MPEP, it is necessary that the prior art structure perform the identical function recited in the means plus function limitation. If the prior art structure performs the identical function as claimed, and it is determined that the prior art structure corresponding to the means plus function limitation is the same as or equivalent to the structure disclosed in the specification, then the prior art structure can be considered anticipatory.

In view of the foregoing discussion of means-plus-function limitations, and for similar reasons as discussed above regarding claim 22, Applicants respectfully submit that Imai does not perform the identical functions recited in the "means plus function" limitations of claim 43.

For example, Applicants respectfully submit that Imai does not disclose or suggest the following functional features recited in the means plus function limitations of claim 43: judging whether or not the received data is of a superdistribution format; identifying audio contents of the received data and obtaining attribute information corresponding to the identified audio contents from external equipment; storing identification information identifying a user of the data conversion apparatus; ciphering the attribute information obtained from the external equipment and the stored identification information; and adding the ciphered attribute information and identification information to the audio contents and thereby converting the audio contents together with the obtained attribute information to the superdistribution data format. Accordingly, Applicants submit that claim 43 is patentable over Imai, an indication of which is respectfully requested.

If the Examiner maintains the position that the functional portion of the means-plus-function limitations in claim 43 is mere intended usage, Applicants request that the Examiner provide explicit support for such a position from either the MPEP or case law. Further, if the Examiner maintains the position that a prior art reference is not required to perform the identical function recited in a means-plus-function limitation, Applicant also requests that the Examiner provide explicit support for such a position from either the MPEP or case law.

Claims 44-48 depend from claim 43 and are therefore considered patentable at least by virtue of their dependency. In addition, Applicants note that claims 44-48 are also considered

patentable based on the combination of features recited therein for at least similar reasons as discussed above with respect to claims 23, 24 and 26-28. Accordingly, Applicants submit that claims 44-48 are patentable over Imai, an indication of which is respectfully requested.

II. New Claims

Claims 49-54 have been added by this amendment. Claims 49-54 are similar to claims 22-24 and 26-28 but are written as method claims.

For example, claim 49 is drawn to a data conversion method and recites the features of judging whether or not the received data is of a superdistribution format; identifying audio contents of the received data and obtaining attribute information corresponding to the identified audio contents from external equipment; storing identification information identifying the user of a data conversion apparatus; ciphering the attribute information obtained from the external equipment and the stored identification information; and adding the ciphered attribute information and identification information to the audio contents and thereby converting the audio contents together with the obtained attribute information to the superdistribution data format.

For at least similar reasons as discussed above with respect to claims 22 and 43, Applicants respectfully submit that the cited prior art fails to disclose, suggest or otherwise render obvious at least these features of claim 49. Accordingly, Applicants submit that claim 49 is in condition for allowance, an indication of which is respectfully requested.

Claims 50-54 depend from claim 49 and are therefore considered patentable at least by virtue of their dependency. Further, Applicants note that claims 50-54 are also considered patentable based on the combination of features recited therein for at least similar reasons as

discussed above with respect to claims 23, 24, 26-28 and 44-48. Accordingly, Applicants submit that claims 50-54 are patentable over the cited prior art, an indication of which is respectfully requested.

If the Examiner believes that Imai anticipates any of new claims 49-54, Applicants kindly request the Examiner to identify the passages in Imai by column and line number that the Examiner believes discloses each of the features recited in these claims so that Applicants may make an informed decision with regard to appeal.

III. Conclusion

In view of the foregoing, Applicants submit that claims 22-24, 26-28 and 43-54 are patentable over the cited prior art. Accordingly, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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